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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/293,702	04/16/1999	RALF SCHAEFER	450117-4866	5219

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NEW YORK, NY 10151

EXAMINER

MIRZA, ADNAN M

ART UNIT	PAPER NUMBER
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2141

15

DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/293,702

Applicant(s)

SCHAEFER ET AL.

Examiner

Adnan M Mirza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6,14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mouly (U.S. 5,878,033) in view of Moline (U.S. 6,067,566).

As per claims 1 and 14, Mouly teaches method for determining access times of repeatedly broadcast objects in a broadcast channel using a unidirectional communication scheme in order to transmit the broadcast objects from a server side to receiver side (col. 4, lines 4-32). Repetition distance, which is the distance between the completed transmission of the broadcast object and its next repetition (col. 4, lines 60-67 & col.5, lines 1-5). Which is the distance between the completed transmission of the broadcast object and its next repetition, and a next reception point in time of said broadcast object is calculated from a current time value and said repetition distance (col. 12, lines 44-64).

However, Mouly does not explicitly teach the broadcast object including a header defining a repetition distance. In the same field of endeavor Moline (U.S. 6,067,566) teaches the header defining a repetition distance (col. 17, lines 15-40).

It would have been obvious to one having ordinary skill in the networking art at the time of the invention the reason to combine teaching of Mouly with Moline because Mouly even though

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have the similar art as the applicant but he does not go in details of the data addressing as it is obvious in networking technology in order to send packets to their destination, a header is required otherwise it would not be possible to sent them. Thus, Mouly-Moline discloses the header information.

3. As to claims 2,15 Mouly-Moline teach how many objects (A, B, C) will be transmitted after a specific broadcast object (Mouly, col. 9, lines 5-22).

4. As to claim 3 Mouly-Moline teach how long time it takes after a specific object (Mouly, col. 4, lines 20-32).

5. As to claims 4,16 Mouly-Moline disclosed repetition distance (R) specifies how much time it will take after a specific broadcast object is broadcast until this specific broadcast object will be transmitted again (Mouly, col. 3, lines 27-42).

6. As to claim 5 Mouly-Moline disclose an upper bound which specifies a maximum value for the repetition distance (Mouly, col. 4, lines 60-67).

7. As to Claim 6 Mouly-Moline discloses said repetition distance specifies an absolute value in the form of a repetition time (Mouly, col. 4, lines 4-19).

8. As to claim 17 Mouly-Moline characterized in that said repetition distance ® specifies how much time will be elapse after a specific broadcast object is broadcast until this specific broadcast object will be transmitted again (Mouly, col. 4, lines 21-33).

9. Claims 7-10 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Mouly (U.S. 5,878,033) in view of Moline (U.S. 6,067,566) as applied to claim 1 above, and further in view of Cheng et al (U.S. 6,157,949).

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10. Mouly and Moline disclosed the invention substantially in claim 1 but failed to disclose information about broadcast cycle generator however Cheng et al discloses broadcast cycle as a sequence of segments and sequence of objects, the sequence of objects, the sequence of objects describing which objects belong to the broadcast cycle and how often each object is included in the broadcast cycle, and the sequence of segments describing the transmission order of segments of all objects (col. 9, lines 7-64).

11. It would have been obvious to one having ordinary skill in the networking art at the time of the invention was made to have incorporated broadcast cycle as a sequence of segments and sequence of objects into the method of Mouly-Moline to increase the efficiency of broadcasting data.

12. As to claim 8 Mouly-Moline-Cheng teach parameter specifying an allocated bitrate for the transmission of objects is added if the repetition distance is encoded as a time value (Cheng, col. 3, lines 35-50).

13. As to claim 9 Mouly-Moline-Cheng discloses calculating repetition of each object and selects segments for transmission (Cheng, Abstract).

14. As to Claim 10 Mouly-Moline-Cheng teaches a broadcast object decoder (21) retrieves an unique identifier of an object (Id) and the repetition distance and obtains the current time value from a time service (22), and an absolute value for reception point in time is calculated from the reception distance and the current time value and is stored together with the object (Id) (col. 8, lines 28-62).

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15. Claims 11-12 are rejected under 35 U.S.C. 103 (a) as being unpatentable Mouly (U.S. 5,878,033) in view of Moline (U.S. 6,067,566) in view of Cheng et al (U.S. 6,157,949) and further in view of Boyle (U.S. 5,864,854).

16. However Mouly-Moline-Cheng disclosed the invention substantially in claim 10 but failed to disclose information about requesting data objects using object Identifier. In the same field of endeavor Boyle discloses data object requestor allows to request certain object by an object identifier and allows to request the next reception point in time of an object.(col. 6, lines 40-51).

17. It would have been obvious to one having ordinary skill in the networking art at the time of the invention was made incorporated the use of object identifier to send data packets in the methodology of Mouly-Molin to increase the accuracy of the data received and make the network more efficient.

18. As to Claim 12 Mouly-Moline-Cheng-Boyle teach requester can use the repetition distance as repetition time information for managing cache (Boyle, col-3, lines 58-67 and col-4, lines 1-17).

19. Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Mouly (U.S. 5,878,033) in view of Moline (U.S. 6,067,566) and further in view of Lindholm (U.S.6,345,313).

20. Mouly-Molin disclosed the invention substantially in claim 1 but failed to disclose the information about the progress indicator however Lindholm discloses it is used in a progress indicator (Column 3, Lines 32-35).

21. It would have been obvious to one having ordinary skill in the networking art at the time of the invention was made to have incorporated the progress indicator as taught by Lindholm, in

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the methodology of Mouly-Molin to increase the efficiency of the method and make it more proficient.

Applicant's arguments are as follows:

22. Applicant argued that prior did not teach "a next reception point in time of said broadcast object is calculated from a current time value and said repetition distance".

23. As to applicant's argument Mouly disclosed a first bit whose value indicates whether said one of said service messages has been broadcast during the preceding scheduled period, a second bit whose value indicates whether the broadcast is a repetition of said one of said service messages already broadcast during said associated scheduled period (col. 12, lines 46-51), wherein the sequence of said first and second bits, of said category cue and of said sequence number in the scheduled message is determined from the sequence in which the broadcast will occur during said associated schedule period (col. 12, lines 59-62).

24. Applicant argued that prior art did not teach "a repetition distance which is the distance between the completed transmission of broadcast object and its next repetition".

As to the argument Mouly disclosed at the end of the field for each broadcast consists either of the category cue if the broadcast is not a repetition of a message already broadcast during the period (second bit=0), or of the sequence number of an earlier broadcast of the message in question during the period if this is a repetition (second bit=1) (col. 4, lines 60-67).

25. Applicant argued that prior art did not teach "a broadcast object including a header defining a repetition distance".

As to the argument Moline disclosed track with time stamps of track. Track contains repetition sequences each of which fits repetitive pattern. It synchronizes the repetitive sequences in with repetitions (col. 17, lines 29-32).

26. Applicant argued that prior art did not disclose “a distance between a completed transmission of a broadcast object and its next repetition”.

As to the argument Mouly disclose “cue if the broadcast is not a repetition of a message already broadcast during the period (second bit=0), or of the sequence number of an earlier broadcast of the message in question during the period if this is a repetition (second bit=1)” (col. 4, lines 60-67). The above statement by Mouly deals with both circumstances where the broadcast repetition has prioritize by assigning different parameters and can interpreted as the distance between the two broadcasts where one is the repetition of the other one.

27. Applicant argued that Moline patent is not analogous art to the present invention and there is no suggestion to combine the Mouly and Moline references. Applicant also argued that Moline prior art is classified by the USPTO in U.S. classes 709 and 345; whereas Mouly is classified in classes 370 and 455. Accordingly, Moline is neither within the field of the present inventore' endeavor, nor is it within the field of the Mouly reference applied in combination.

As to applicant's arguments In response to applicant's argument that Mouly (U.S. 5,878,033) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case Mouly prior art is part of the present invention where it broadcast messages using the TDMA technology, these messages can be music MIDI files or Mpeg file. Moline using the internet to transmit files over the network where the network can be using any kind of technology while in case of Mouly the network is based on TDMA technology.

Conclusion

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

29. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (703)-305-4633.

30. The examiner can normally be reached on Monday to Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703)-305-4815. The fax for this group is (703)-746-7239.

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31. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-746-7239 (For Status Inquiries, Informal or Draft Communications, please label "PROPOSED" or "DRAFT");

(703)-746-7239 (For Official Communications Intended for entry, please mark "EXPEDITED PROCEDURE"),

(703)-746-7238 (For After Final Communications).

32. Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-3900.

Any response to a final action should be mailed to:

BOX AF

Commissioner of Patents and Trademarks Washington, D.C.20231

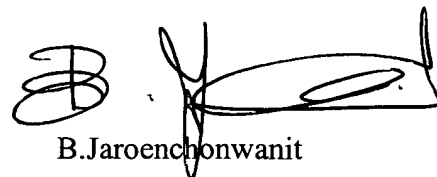
Or faxed to:

Hand-delivered responses should be brought to 4th Floor Receptionist, Crystal Park II,
2021 Crystal Drive, Arlington, VA 22202.



Adnan Mirza

Examiner



B. Jaroenchonwanit

Primary Examiner